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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,621	08/30/2001	Shuzo Toda	F-11390	6737
466	7590	03/23/2006	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			PWU, JEFFREY C	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/941,621	<b>Applicant(s)</b> TODA, SHUZO	
	<b>Examiner</b> Jeffrey C. Pwu	<b>Art Unit</b> 2143	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 5-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Continued Examination***

1. The Final rejection of claims 1-2 and 5-9 is hereby withdrawn in view of applicant's Appeal Brief filed December 22, 2005. Any inconvenience is regretted.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lynch et al. (U.S. 5,761,681)

Lynch et al teaches claims:

1. A terminal that automatically switches from a first ordinary operation state to a second download state (Abstract – “methods for controlling cellular mobile radiotelephones by automatically downloading lists of preferred foreign cellular systems with which the CMRs can communicate”) utilizing a download start control signal transmitted to the terminal, comprising:
  - means for determining whether a received signal is a download start control signal; (col.4, lines 1-14; “a control means updates a data list to be downloaded by generating a version number corresponding to the current data list”)

Art Unit: 2143

- means for changing a state of the terminal from a first ordinary operation state to a second download state if the received signal is the download start control signal; (col.4, lines 1-14; “The system further includes means for broadcasting the version number to the radio telephone subscriber units which in turn compare the received version number to a stored version number of a comparable data list in each of the radio telephone subscriber units. Responsive to the comparison means for initiating in each of the telephone subscriber units will start a download of the data list based upon the results of the comparison.

- means for transmitting a state switching notification signal to a sender of said download start control signal if the state of the terminal is changed to the download state; (52)and

- means for downloading one of software and data after transmitting said state switching notification signal, wherein, the means for determining whether a received signal is a download start control signal comprises a memory (416) for storing data as a registered download start control signal and data as a registered state switching end notification signal, a receiving section that receives the received signal through a network, and a control section that

i) compares the received signal with the registered download start control signal stored in the memory, and ii) when the received signal is coincident with the registered download start control signal determines that the received signal is a download start control signal. (col.4, lines 1-29);

2. The terminal according to claim 1, wherein each of said download start control signal and said state switching notification signal is transmitted as one of a sub-address, a push button tone and user-to-user information. (12)

Art Unit: 2143

5. A system for downloading one of software and data to a terminal, comprising the terminal according to claim 1 and a center comprising: means for transmitting a download start control signal to the terminal and means for transmitting one of software and data to be downloaded to said terminal, when receiving a state switching notification signal from said terminal. (steps 501-510)

6. A system for downloading one of software and data to a terminal, comprising the terminal according to claim 2 and a center comprising: means for transmitting a download start control signal to the terminal; means for transmitting one of software and data to be downloaded to said terminal, when receiving a state switching notification signal from said terminal; and wherein each of said download start control signal and said state switching notification signal is transmitted as one of a sub-address, a push button tone and user-to-user information. (col.8, lines 17-col.9, line 13)

7. A terminal that automatically switches from a first ordinary operation state to a second download state utilizing a download start control signal transmitted to the terminal, comprising:

- means for determining whether a received signal is a download start control signal, the means determining whether a received signal, from a signal source, is a download start control signal comprising a data registration memory storing data as a registered download start control signal, a receiving section that receives the received signal through a network, and a control section that

i) compares the received signal with the registered download start control signal stored in the data registration memory, and

Art Unit: 2143

ii) when the received signal is coincident with the registered download start control signal determines that the received signal is a download start control signal;

- means for changing a state of the terminal from a first ordinary operation state to a second download state upon the received signal being determined, by the control section, to be the download start control signal;
- means for transmitting a state switching notification signal to a sender of said download start control signal if the state of the terminal is changed to the download state; and
- means for downloading one of software and data after transmitting said state switching notification signal. (Claim 7 is similarly rejected as in claim 1)

8. The terminal of claim 7, wherein, the data registration memory further store data as registered state switching end notification signal data, upon the means for changing a state of the terminal changing the state from the first ordinary operation state to the second download state, the registered state switching end notification signal is read from the memory and transmitted as a state switching notification signal, through the network, to the signal source as a notification of the terminal being switched to the second download state. . (steps 501-510)

9. The terminal according to claim 8, wherein each of the download start control signal and the state switching notification signal is transmitted as one of a sub-address, a push button tone and user-to-user information. (col.8, lines 17-col.9, line 13)

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-2 and 5-9 have been considered but are moot in view of the new ground(s) of rejection.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



3/15/06

**JEFFREY PWU**  
**PRIMARY EXAMINER**